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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,002	10/21/2005	Lars Jorneus	NOBELB.207NP	1703
20995 7590 04/11/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER BUMGARNER, MELBA N	
			ART UNIT	PAPER NUMBER
			3732	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		04/11/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/11/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/522,002

Applicant(s)

JORNEUS ET AL.

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3, 5 and 7-20 is/are rejected.
7) ☒ Claim(s) 4 and 6 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/14/05.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 8, and 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Recitation of “the outsides of the spacer and of the implant” in claim 2 and “the corners” in claim 8, and “the direction of rotation” in claim 10 lack sufficient antecedent basis; and it is unclear what is “in rounded corners” and which of the configurations (i.e. rounded or not) to which “a corresponding configuration” applies in claim 8.

Claim Objections

3. Claims 14 and 20 are objected to because of the following informalities: “one another spacer or adapter” in claim 14, “adapter is additionally comprises” in claim 20. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 5, 9, and 14-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Sutter (6,461,160). Sutter discloses a dental assembly comprising a ceramic spacer 90 and an adapter 270 comprising first and second portions, configured to cooperate with the spacer and the implant, when the spacer is in its position fitted on the implant, the adapter is completely enclosed by the spacer and the implant, the adapter comprises at least one slit 273 configured to give the first portion resilient properties. Sutter shows the spacer bears via a bottom surface 92 against a top surface of the implant 22, and the spacer and the implant via a gap located between the bottom and top surfaces, and the assembly comprises a locking screw (figure 8). The at least one slit can be said to extend along the first portion and into parts of the second portion. The spacer and adapter can be released from one another. When the spacer is fitted on the implant, the adapter is substantially unaffected in the longitudinal direction and cannot be acted upon by lateral or bending forces. The adapter includes penetrating parts 275 which are configured to deform when the adapter and the spacer are joined and deforms against an opposite surface in the spacer. The adapter includes a plurality of slits and at least one slit extends in a longitudinal direction with respect to the adapter.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutter. Sutter discloses a dental assembly that shows the limitations as described above and the spacer having a

coned portion; however, Sutter does not show the first portion length of about 1/3 to 1/5 of the length of the adapter and coned portion height of about 1/3 to 1/5 of the height of the spacer. It would have been an obvious matter of choice to one having ordinary skill in the art as to the proportion of the dimensions of the portions as the first portion is not delineated from the second portion on the adapter in the claim and the height of the spacer is dependent upon the size of prosthetic required in Sutter.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutter in view of Hund et al. (5,328,371). Sutter discloses a dental assembly that shows the limitations as described above; however, Sutter does not show the first portion having a polygonal external cross section. Hund et al. teach a dental assembly having an adapter portion having a polygonal external cross section 24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first portion of Sutter having a polygonal cross section in order to secure the first portion against rotation relative to the implant and avoid play between the implant and adapter in view of Hund et al.

Allowable Subject Matter

9. Claims 4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 8 and 10-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Specification

11. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Conclusion

12. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriquez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Primary Examiner